

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5

IN THE MATTER OF:

R & F Metals Company, Inc.)	
Detroit, Michigan)	Finding of Violation
)	
)	EPA-5-00-MI-3
PROCEEDINGS PURSUANT TO)	
THE CLEAN AIR ACT,)	
42 U.S.C. §§ 7401-7671q.)	

FINDING OF VIOLATION

Pursuant to the Clean Air Act (Act), 42 U.S.C. § 7401, et seq., the State of Michigan and R & F Metals Company, Inc. (R & F) are hereby notified that the Administrator of the United States Environmental Protection Agency (U.S. EPA), by authority duly delegated to the undersigned, finds R & F of 9101 West Fort Street, Detroit, Michigan, in violation of the Act and implementing regulations set forth at 40 C.F.R. §§ 82.156 and 82.166.

STATUTORY AND REGULATORY BACKGROUND

1. Section 608(a)(2) of the Act, 42 U.S.C. § 7671g(a)(2), authorizes the U.S. EPA to promulgate regulations establishing standards and requirements regarding the use and disposal of class I and II substances during service, repair, or disposal of appliances and industrial process refrigeration. The Administrator initially promulgated these regulations on May 14, 1993, 58 Fed. Reg. 28712. The Administrator amended the regulations on August 19, 1994, 59 Fed. Reg. 42956; November 9, 1994, 59 Fed. Reg. 55926; and August 8, 1995, 60 Fed. Reg. 40440. The regulations were codified at 40 C.F.R. Part 82, Subpart F (§ 82.150 et seq.).

2. Regulation 40 C.F.R. § 82.156(f) requires, in part, that, effective July 13, 1993, persons who take the final step in the disposal process (including but not limited to scrap recyclers and landfill operators) of a small appliance, room air conditioner, motor vehicle air conditioner (MVAC), and MVAC-like appliance must either recover any remaining refrigerant from the appliance in accordance with specific procedures, or verify that the refrigerant has been evacuated from the appliance or shipment of appliances previously. Such verification must include a signed statement from the person from whom the appliance or shipment of appliances is obtained that all refrigerant that had not leaked previously has been recovered from the appliances. This statement must include the name and address of the person who recovered the refrigerant and the date

the refrigerant was recovered or a contract that refrigerant will be removed prior to delivery.

3. 40 C.F.R. § 82.166(i) requires, effective November 14, 1994, that persons disposing of small appliances, MVACs, and MVAC-like appliances must maintain copies of signed statements obtained pursuant to 40 C.F.R. § 82.156(f).

4. 40 C.F.R. § 82.152 defines "appliance" as any device which contains and uses a class I or class II substance as a refrigerant and which is used for household or commercial purposes, including any air conditioner, refrigerator, chiller, or freezer.

5. 40 C.F.R. § 82.152 defines "small appliance" as any of the following products that are fully manufactured, charged, and hermetically sealed in a factory with five (5) pounds or less of refrigerant: refrigerators and freezers designed for home use, room air conditioners (including window air conditioners and packaged terminal air conditioners), packaged terminal heat pumps, dehumidifiers, under-the-counter ice makers, vending machines, and drinking water coolers.

Statement of Facts

6. R & F is the owner and operator of a scrap processing facility. R & F is a person who disposes of appliances and small appliances as part of its business operations. R & F is, therefore, subject to the regulations at 40 C.F.R. Part 82, Subpart F.

7. On July 14, 1999, U.S. EPA Region 5 conducted an inspection at the R & F facility.


8. During the inspection, U.S. EPA Inspectors observed R & F disposing of appliances without first recovering any remaining ozone-depleting refrigerant from the appliances or verifying that refrigerant had been previously evacuated from the appliances.

Findings of Violation

9. R & F's disposal of appliances and/or small appliances without first recovering the refrigerant from the appliance or verifying that the refrigerant had been previously evacuated in accordance with 40 C.F.R. §82.156(f) and its failure to maintain records in accordance with 40 C.F.R. §82.166(i), pursuant to Section 113(a)(3) of the Act, 42 U.S.C. 7413(a)(3), constitutes a violation of 40 C.F.R. §§82.156(f) and 82.166(i) and the Act.

WHEREFORE, the Administrator of the U.S. EPA, by authority duly delegated to the undersigned, hereby notifies R & F Metals Company, Inc., and the State of Michigan that R & F Metals Company, Inc. is in violation of the Clean Air Act and the implementing regulation as set forth above.

January 12, 2000
Date


Margaret M. Guerriero,
Acting Director
Air and Radiation Division

CERTIFICATE OF MAILING

I, Shanee Rucker, do hereby certify that a Finding of Violation pursuant to the Clean Air Act was sent by Certified Mail, Return Receipt Requested, to:

Richard Freeman, Office Manager
R & F Metals Company, Inc.
9101 West Fort Street
Detroit, Michigan 48209

I also certify that copies of the Finding of Violation pursuant to the Clean Air Act was sent by first class mail to:

Barbara Rosenbaum, Enforcement Section
Supervisor
Michigan Department of Environmental Quality
Air Quality Division
P.O. Box 30260
Lansing, Michigan 48909

Wendy Barrott, Director
Air Quality Management Division
Wayne County Department of Environment
640 Temple Street
Detroit, Michigan 48201

Gregory A. Moore, Program Coordinator
City of Detroit
Department of Environmental Affairs
Administration
660 Woodward Ave, Suite 1590
Detroit, Michigan 48226

on the 13 day of January 2000.

P 564 485 677
CERTIFIED MAIL RECEIPT NUMBER

Shanee Rucker
Shanee Rucker, Secretary
AECAS (MI/WI)